

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1069
 Judiciary

(Delegate McComas, *et al.*)

Protective Orders – Coercive Control

This bill expands the definition of “abuse” as it applies to petitions for domestic violence protective orders to include, if the person for whom relief is sought is an adult, coercive control. “Coercive control” means a pattern of emotional or psychological manipulation, maltreatment, threat of force, or intimidation used to compel an individual to act (or refrain from acting) against the individual’s will.

Fiscal Summary

State Effect: General fund expenditures increase by \$88,200 in FY 2024 only, as discussed below. Revenues are not affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	88,200	0	0	0	0
Net Effect	(\$88,200)	\$0	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not materially affect local finances or operations.

Small Business Effect: None.

Analysis

Current Law: An individual may generally seek relief from abuse by filing a petition for a protective order with the court or, if the clerk’s office is closed, with a District Court commissioner. Under limited circumstances, a petition may also be filed electronically from specified locations.

“Abuse” is defined as:

- an act that causes serious bodily harm;
- an act that places a person eligible for relief in fear of imminent serious bodily harm;
- assault in any degree;
- rape or sexual offense under specified statutory provisions or attempted rape or sexual offense in any degree;
- false imprisonment;
- stalking; or
- revenge porn.

If the person for whom relief is sought is a child, “abuse” may also include abuse of a child, as defined in statute. “Abuse” may also include abuse of a vulnerable adult, as defined in statute, if the person for whom relief is sought is a vulnerable adult.

Generally, if an interim protective order is granted by a District Court Commissioner, a temporary protective order hearing is heard on the first or second day on which a District Court judge is sitting after issuance of the interim protective order. Generally, if a temporary protective order is granted, a final protective order hearing occurs one week later.

In a domestic violence proceeding, if a judge finds by a preponderance of the evidence that abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse.

Among other relief, a final protective order may order the respondent to (1) refrain from abusing or threatening to abuse any person eligible for relief; (2) refrain from contacting, attempting to contact, or harassing any person eligible for relief; (3) refrain from entering the residence of any person eligible for relief; (4) remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members; or (5) remain away from a child care provider of a person eligible for relief while the child is in the provider’s care. A final protective order may also address issues relating to custody and visitation, use and possession of a home or vehicle, emergency family maintenance, counseling, payment of costs, and temporary possession of a pet. A final protective order must require the respondent to surrender to law enforcement authorities any firearm in the respondent’s possession and to refrain from possession of any firearm for the duration of the protective order.

All relief granted in a final protective order is effective for the period stated in the order, generally up to a maximum of 12 months. A final protective order may be issued for up to two years in specified circumstances set forth in statute. In limited circumstances specified

by statute, the court may issue a permanent protective order that requires the respondent to refrain from abusing or threatening to abuse the person eligible for relief or refrain from contacting, attempting to contact, or harassing the person eligible for relief. A subsequent circuit court order pertaining to any of the provisions in the final protective order supersedes those provisions in the final protective order. Statutory provisions set forth circumstances under which a final protective order may be modified, rescinded, or extended.

A person who violates specified provisions of an interim, temporary, or final protective order is guilty of a misdemeanor and subject to maximum penalties of a \$1,000 fine and/or 90 days imprisonment for a first offense and a \$2,500 fine and/or one year imprisonment for a second or subsequent offense.

State/Local Fiscal Effect: General fund expenditures increase by \$88,200 in fiscal 2024 only for the Judiciary to make necessary programming changes. Although the bill may result in increased petitions for domestic violence protective orders, it is not anticipated to materially impact the operations or finances of the District Court, which handles the majority of protective order petitions. It also does not materially impact the workload of the circuit courts. The enforcement of additional protective orders can be handled using existing budgeted resources.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1178 of 2022 and HB 1352 of 2020.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2023
km/lgc

Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510